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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed as a separate compilation.

RAJYA SABHA

The following Bills were introduced in the Rajya Sabha on the 30th August, 1991:—

I

BILL No. XLI OF 1991

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Forty-second Year of the Republic of India as follows:—

1. This Act may be called the Constitution (Amendment) Act, 1991.
2. After article 117 of the Constitution the following article shall be added, namely:—

Short title.

Insertion
of new
article
117A.

“117A. (1) Notwithstanding anything in this Part, if at any time when the House of the People is dissolved or the dissolution of the House of the People takes place or in any other contingency when the financial business required to be completed under this Constitution cannot be timely completed by the House of the People, the Council of States shall have all the powers in relation to any financial matter or to any Bill for the appropriation of moneys out of the Consolidated Fund of India heretofore conferred on the House of the People and the provisions of this Part shall apply with such variations and modifications as the Chairman of the Council of States may direct.

Special
Financial
Powers
of the
Council
of States
in certain
cases.

(2) The Appropriation Bill passed by the Council of States under this article without the House of the People having passed it, shall, after assented to by the President, have the same force and effect as an Act of Parliament:

Provided that nothing in this article shall derogate the powers of the House of the People to reconsider any financial matter or any Bill for the appropriation of moneys out of the Consolidated Fund of India made by the Council of States within thirty days from the date on which the House of the People first sits after its reconstitution and upon such reconsideration it shall not be necessary for that matter or the Bill, as the case may be, to be transmitted to the Council of States for further consideration and it shall be deemed to have been passed by both the Houses of Parliament in the form in which it was finally passed by the House of the People and assented to by the President.

STATEMENT OF OBJECTS AND REASONS

Articles 112 and 117 of the Constitution lay down the procedure in financial matters in Parliament. The Lok Sabha has been given the dominant role to play in financial matters. The budget is required to be presented only to the Lok Sabha. The demands for grants are also required to be made to the Lok Sabha only. After the Lok Sabha votes on the demands and passes the Appropriation Bills the Rajya Sabha comes into picture. Recent happenings have however, shown that these financial provisions are for normal times only. There is no doubt that the strings of the purse must be with the House elected directly by the people. But at the same time some contingencies may arise when the House of the People is dissolved or it is not possible for a regular government to be formed which may present a regular budget in accordance with the articles mentioned above.

The Rajya Sabha is a continuous body and not subject to dissolution. Just as under Articles 352 and 356 Rajya Sabha can extend the life of Proclamations issued under these Articles when the dissolution of the Lok Sabha takes place, it is felt that similar powers should be conferred on the Rajya Sabha with a view to overcoming temporary financial difficulties which may occur as a result of the dissolution of the Lok Sabha or non functioning of a Government. This Bill, therefore, seeks to insert a provision in the Constitution to that effect.

Hence this Bill.

RAJNI RANJAN SAHU.

II

BILL NO. XXVIII OF 1991

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Forty-second Year of the Republic of India as follows:—

Short
title
and com-
mence-
ment.

1. (1) This Act may be called the Constitution (Amendment) Act, 1991.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Insertion
of new
article-
32A.

2. After article 32 of the Constitution, the following article shall be inserted, namely:—

Free legal
aid to
women.

“32A. Notwithstanding anything in the Constitution, the State shall provide to every unemployed woman, with free legal aid, as and when required, in order to ensure her security and protection against oppression and exploitation.

Explanation.—The term “free legal aid” shall mean and include free counsel, exemption from payment of court fees and expenditure on filing of plaints, petitions, writs, etc. in all courts, Tribunals, High Courts and the Supreme Court”.

STATEMENT OF OBJECTS AND REASONS

The Bill provides for free legal aid to women with a view to ensure their security and protection from oppression and exploitation. This provision is proposed to be made as one of the fundamental rights so that the needy woman can seek remedy in courts to safeguard their interests.

Hence this Bill.

SATYA PRAKASH MALAVIYA.

FINANCIAL MEMORANDUM

Clause 2 of the Bill provides that the free legal aid should be provided to unemployed women. For this purpose Counsels have to be engaged to plead the cases of such women in Lower Courts, High Courts and Supreme Court. The Central Government shall have to provide financial assistance to State Governments in respect of cases arising out of the respective States in Lower and High Court. In respect of cases arising in Union Territories, the Central Government shall have to incur expenditure. It is difficult to give an estimate of expenditure to be incurred by the Central Government in this regard. However, an annual recurring expenditure to the tune of about rupees two crores is likely to be involved from the Consolidated Fund of India.

A non-recurring expenditure of about rupees one crore is also likely to be involved.

III

BILL NO. XXVII OF 1991

A Bill to provide for the grant of financial relief to blind persons and for matters connected therewith.

BE it enacted by Parliament in the Forty-second Year of the Republic of India as follows:—

1. (1) This Act may be called the Financial Relief to Blind Persons Act, 1991.

(2) It extends to the whole of India.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette appoint and different dates may be appointed in respect of different States.

2. In this Act, unless the context otherwise requires, "blind person" means a person who has total absence of sight or vision.

Short
title,
extent
and
commen-
cement.

Definition.

Relief to
blind
person.

3. (1) Every blind person shall be entitled to a financial relief of rupees three hundred fifty per month:

Provided that the relief shall not be granted to any blind person who is already getting financial help from any other source to sustain himself.

(2) The amount of relief specified in sub-section (1) shall be subject to alteration according to the cost of living index.

Social
Welfare
Boards to
disburse
relief.

4. The financial relief specified in section 3 shall be disbursed to blind persons by the Central and State Social Welfare Boards.

Central
Govern-
ment to
give
adequate
funds to
the Social
Welfare
Boards.

5. The Central Government shall, by due appropriation, place at the disposal of the Central and State Social Welfare Boards adequate funds for granting relief to blind persons under this Act.

Applica-
tion for
granting
relief.

6. (1) A blind person seeking financial relief under this Act shall make an application in the prescribed form to a Social Welfare Board with whose jurisdiction he resides.

(2) The Social Welfare Board shall dispose of the application within a period of ninety days from the date of receipt of such application.

Medical
Certificate
for blind-
ness.

7. A medical Certificate issued by the Chief Medical Officer of the District where the applicant resides to the effect that the person concerned is blind shall be conclusive proof of his blindness and shall be accepted as such by the concerned authorities.

Power to
mak :
rules.

8. The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

STATEMENT OF OBJECTS AND REASONS

Welfare of blind persons should be the country's prime concern. There are lakhs of blind persons all over the country who are suffering from this worst disability and are financially crippled. They have no independent or adequate means of livelihood and spend their days in agony and distress.

Government should, therefore, come out in a big way to undertake social welfare measures for blind persons and to provide financial relief to them to enable them to lead an honourable life.

Hence, this Bill.

SATYA PRAKASH MALAVIYA.

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides for the grant of a monthly relief of Rupees three hundred and fifty to every blind person. Clause 4 of the Bill provides that the Central Government shall place at the disposal of Central and State Welfare Boards sufficient funds for disbursing relief and financial assistance. There is no actual estimate of the number of blind persons who may be eligible for such relief and financial assistance but their number may run into several lakhs. It is estimated that about rupees three hundred crores per annum will be required for providing relief and financial assistance to eligible blind persons. This is a recurring expenditure and can be met from the Consolidated Fund of India.

No non-recurring expenditure is likely to be incurred.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 8 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill. The matters with respect to which rules may be made are matters of procedure or details. The delegation of the Legislative power is therefore, of a normal character.

IV

BILL NO. XXVI OF 1991

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Forty-second Year of the Republic of India as follows:—

1. (1) This Act may be called the Constitution (Amendment) Act, 1991.

Short
title.

2. In article 16 of the Constitution, after clause (4), the following clause shall be inserted, namely:—

Amend-
ment of
article 16.

“(4A) Nothing in this article shall prevent the State from making any provision for the reservation of appointments or posts in favour of physically handicapped persons including the blind and war widows who, in the opinion of the State, are not adequately represented in the services under the State.”

STATEMENT OF OBJECTS AND REASONS

Ours is a Welfare State. The Constitution provides equality of opportunity for all citizens in matters relating to employment or appointment to any office under the State irrespective of their religion, race, caste, sex, descent, place of birth, residence or any of them. However, exception in this regard has rightly been made in the case of backward class of citizens under article 16(4). Other classes of citizens, like physically handicapped persons and war widows should also get reservation in services. It is felt that the State should endeavour to improve the condition of these citizens economically and socially.

Hence, this Bill.

SATYA PRAKASH MALAVIYA

V

BILL NO. XXXVII OF 1991

A Bill to provide for measures to be taken up by the Union Government for the rehabilitation of the victims of Bhopal Gas Leak disaster of December 1984 and for their welfare and medical care and for matters connected therewith.

BE it enacted by Parliament in the Forty-second Year of the Republic of India as follows:—

1. (1) This Act may be called the Bhopal Gas Leak Disaster Victims (Rehabilitation, Welfare and Medical Care) Act, 1991.

Short title
and com-
mencement.

(2) It shall come into force at once.

2. It is hereby declared that it is expedient in the public interest that the Central Government should take under its control the rehabilitation, welfare and medical care of the Victims of the Bhopal Gas Leak Disaster of 1984.

Declaration
as to expedi-
ency.

3. In this Act, unless the context otherwise requires,—

Definitions.

(a) “disaster” means the Bhopal Gas Leak Disaster which occurred on the 2nd and 3rd days of December, 1984 in Bhopal in the State of Madhya Pradesh which involved the release of highly

noxious and abnormally dangerous MIC Gas from an Industrial Plant (being a plant of the Union Carbide India Limited, a subsidiary of the Union Carbide Corporation, U.S.A.) resulting in loss of life and damage to property and ecology on an extensive scale;

(b) "claimant" means,—

(i) any person entitled to make a claim arising out of or connected with the disaster;

(ii) where the death of a person has taken place as a result of the disaster; the claimant includes the spouse, children (including a child in the womb at the time of disaster or afterwards having the effects of disaster) and other heirs of the deceased;

(c) "Government" means the Central Government;

(d) "prescribed" means prescribed by rules made under this Act;

(e) "scheme" means a scheme framed under section 4; and

(f) "words and expressions used but not defined in this Act and defined in the Bhopal Gas Leak Disaster (Processing of Claims) Act, 1985 shall have the meanings assigned to them in that Act.

21 of 1985.

Rehabilita-
tion
Scheme
for the
disaster
victims.

4. (1) The Central Government shall, in consultation with the Government of the State of Madhya Pradesh, formulate a scheme for the rehabilitation of the victims of the disaster within a time frame

(2) The Scheme *inter alia* shall include,—

(a) providing dwelling houses to the homeless victims of the disaster;

(b) providing household items at subsidised rates;

(c) providing essential commodities at subsidised rates;

(d) providing *Janta* clothes at subsidised rates;

(e) providing medicines at nominal rates etc.

Employ-
ment to
one
member
of vic-
tims'
families.

5. The Central Government shall provide suitable employment to at least one eligible member of the family of every person who was killed or became permanently disabled in the disaster and who was the sole earning member of his family within six months of the commencement of this Act.

Explanation.—For the purposes of this Section, the expression 'family' means husband, wife and dependent parents and dependent children.

Financial
assistance
to families
of victims
of disas-
ter who
lost their
lives.

6. Notwithstanding anything contained in the Public Liability Insurance Act, 1991 or any other law for the time being in force, the Central Government shall pay financial assistance at the rate of rupees one thousand five hundred per mensem to the family of every person killed in the disaster.

6 of 1991.

6 of 1991

7. (1) Notwithstanding anything in the Public Liability Insurance Act, 1991 every person who has acquired physical disability, permanent or otherwise, internal or external due to the disaster whether born before or after the disaster, shall be paid by the Central Government financial assistance at the rate of rupees one thousand per mensam.

Financial assistance to victims acquiring physical disability.

(2) The provisions of sub-section (1) shall be deemed to have come into force from the first day of January, 1985.

8. (1) The Central Government shall provide necessary medical care to every victim of disaster either in Bhopal or New Delhi, as the case may be, depending upon the nature of effects caused by the MIC gas.

Medical care of disaster victims.

(2) The entire cost of journey undertaken by such victim from Bhopal to New Delhi, and back alongwith one person accompanying him and the boarding and lodging expenses in New Delhi shall be borne by the Central Government.

(3) All the medicines prescribed by medical experts for the treatment of such victim of the disaster shall be supplied to him free of cost by the Central Government.

9. The provisions of this Act shall be in addition to and not in derogation of any other law for the time being in force regulating any of the matters dealt with in this Act.

Savings.

10. The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

Power to make rules.

STATEMENT OF OBJECTS AND REASONS

It was the fateful night of 2nd December, 1984 when Yamaraja raided the vicinity near the plant of the Union Carbide India Limited (UCIL) at Bhopal and snatched away the life out of almost every living being whether they be human beings, cattle, birds, insects etc. This worst tragedy occurred due to leakage of Methyl iso-cynide (MIC) from the plant of UCIL, a subsidiary of Union Carbide Corporation (UCC) of the U.S.A. This tragedy occurred when the people, mostly labourers of UCIL and daily wage workers were sleeping in their *jhuggis* near the UCIL plant giving no chance of escape to them. Since the MIC had spread in the air it also affected the near by localities. Whoever inhaled the toxic MIC either died instantly or became crippled for ever. The tragedy did not end there. The MIC is deadliest to affect the generations of the victims. Those pregnant women who had inhaled the MIC and were fortunate enough to survive gave birth to stillborn or deformed babies. Such women are still giving birth to deformed babies which reminds us of the generations of Hiroshima and Nagasaki of Japan after the atomic explosions over them. In the Bhopal Disaster those who could survive became crippled for every. They are dying a slow death but they are not getting proper medical care. The Central Government has to step in for their medical care and rehabilitation in a proper way by formulating a scheme for this purpose.

It is also well known that the victims of this disaster have not been given any worthwhile compensation so far though more than six years are over after the calamity hit the victims. There is no doubt that the prime responsibility to compensate the victims is that of UCIL/UCC but the victims must under the present state of law prove the fault of UCIL/UCC. To prove fault needs a long drawn out litigation which will require considerable expense also, thus making the remedy beyond the reach of most of the poor victims. Though the Central Government acquired the right to represent the victims in courts and other platforms through the Bhopal Gas Leak Disaster (Processing of Claims) Act, 1985 and entered into an agreement with UCC for the amount of compensation, the hapless victims could not get the desired relief. The matter is still lingering in the courts and victims are losing their hopes day by day. The delay has also resulted in ushering some unscrupulous welfare associations/organisations who under the garb of providing relief to the victims are actually cheating them. Hence it is felt that being a welfare State the Centre must step in to give financial assistance to the heirs of those killed in disaster or who become crippled and to those who are coming to this world in a deformed state. Their medical care should also be the responsibility of the Central Government. However, this process should be started at the earliest possible because justice delayed is justice denied.

Hence this Bill.

SURESH PACHOURI.

FINANCIAL MEMORANDUM

Clause 5 of the Bill provides for employment to one member of every victim's family by the Government. Clause 6 provides for the financial assistance to families of victims of disaster who lost their lives. Clause 7 provides for financial assistance to victims acquiring physical disability. Clause 8 provides for medical care to disaster victims. The Bill, if enacted, will involve expenditure from the Consolidated Fund of India. It is estimated that a sum of rupees one thousand crores per annum as recurring expenditure will involve.

A sum of rupees five crores is also likely to be involved as non-recurring expenditure.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 10 of the Bill gives authority to the Central Government to make rules for carrying out the purposes of this Bill. The rules will relate to matters of details only. The delegation of Legislative power is of normal character.

VI

BILL No. XXXVIII OF 1991

A Bill to provide all citizens with houses to live in, supply of essential commodities including Janta cloth at cheaper rates to them and to provide job at least to one member of each family throughout the country and for matters connected therewith.

BE it enacted by Parliament in the Forty-second Year of the Republic of India as follows:—

1. (1) This Act may be called the Rozi, Roti, Kapda Aur Makaaan (Citizens Welfare) Act, 1991.

Short title,
extent and
commence-
ment.

(2) It extends to the whole of India.

(3) It shall come into force with immediate effect.

2. In this Act unless the context otherwise requires,—

Definitions.

(a) “dwelling house” means a unit of accommodation used solely for the purpose of residence;

(b) "family" in relation to a person means the individual, the wife or husband, as the case may be, of such individual and their unmarried minor children;

(c) "master plan" means the plan, by whatever name called, prepared by the State for the development of such area or part thereof and providing for the stages by which such development shall be carried out;

(d) "prescribed" means prescribed by rules made under this Act;

(e) "State" includes the Central Government, a Union Territory Administration and State Government.

Provision
of dwelling
house to
all citi-
zens.

3. Every citizen of the country shall be provided with a dwelling house of appropriate status by the State within a time frame after the commencement of this Act.

Master
plan for
dwelling
houses.

4. Notwithstanding anything contained in any law for the time being in force, the State shall prepare a master plan for providing dwelling houses to all the citizens, for the country as a whole or of such area or part thereof as it thinks fit for carrying out the purposes of this Act.

Supply of
essential
commo-
dities-
to all
citizens
at cheaper
rates.

5. Every citizen shall be supplied essential commodities as defined by the Essential Commodities Act, 1955 or any order made thereunder including the *Janata* cloth or other cheaper brands of clothes at a reasonable price to be fixed by the Central Government through the public distribution system or such other retail outlets which may be opened by the State for the purpose.

Provision
of job to
one
member of
each
family

6. At least one adult member of each family throughout the country shall be provided with employment by the Central Government within a time frame after the commencement of this Act.

Power to
make
rules.

7. The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

STATEMENT OF OBJECTS AND REASONS

Ours is a welfare State which means it is the moral responsibility of the State to provide its citizens basic things required for subsistence in this world, namely, *Roti, Roti, Kapda Aur Makaan*. That is to say that the State should provide essential commodities such as cereals, edible oils etc. for the consumption of its citizens at cheaper rates, clothes to wrap their bodies and a roof over their heads. This is possible only if job opportunities are easily available. But despite being a Welfare State the present day picture of our country is totally different. There are crores of people who have no shelter because there is acute shortage of dwelling houses and they live in open places which in urban areas are known as "*Patris*" and fall victims to severe cold and heat particularly because they cannot afford even to purchase their minimum requirement of cloth. There are equal number of people who have no food to eat and many of them do not get even one time meal. There are millions of citizens whose income particularly in the rural areas is not more than one rupee per day and they have to feed at least three to four members of their families. There are also crores of people who are unemployed and have no means to earn their livelihood to feed their family members. As a result large number of people both in urban areas and rural areas have resorted to begging and many have become professional thieves and dacoits. Many such people have sided with anti-national and anti-social elements and have become dreaded terrorists. Therefore, it is felt that there should be some legislation which should provide every citizen *Roti, Roti, Kapda Aur Makaan* within a time frame to achieve the goals of a Welfare State.

Hence this Bill.

SURESH PACHOURI.

FINANCIAL MEMORANDUM

Clause 3 of the Bill makes provision of dwelling houses to all citizens. Clause 4 provides for Master plan for dwelling houses. Clause 6 makes provision of job to one member of each family. The Bill if enacted will involve expenditure from the consolidated Fund of India. At this stage it is not possible to estimate the exact amount required for the purposes of this Bill. However, it may require a sum of rupees one thousand crores as recurring expenditure every year.

A non recurring expenditure to the tune of rupees twenty five crores is also likely to be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 7 of the Bill provides that the Central Government may make rules for carrying out the purposes of this Bill which will relate to matters of details only. The delegation of legislative power is of normal character.

VII

BILL NO. XL OF 1991

A Bill to amend the Environment (Protection) Act, 1986.

BE it enacted by Parliament in the Forty-second Year of the Republic of India as follows:—

1. This Act may be called the Environment (Protection) Amendment Act, 1991.

Short
title.

29 of 1986.

2. In section 2 of the Environment (Protection) Act, 1986 (hereinafter referred to as the principal Act),—

Amend-
ment of
section
2.

(i) for clause (a), the following clause shall be substituted, namely:—

(a) “environment” includes water both surface and underground and also the territorial waters, air, and land including the surface of the earth, sub-soil and the forests (the flora and the fauna) and the inter-relationship which exists among and between water, air and land and human beings, other living creatures, plants, micro-organism and property exclusive of mere amenities;’

(ii) for clause (b), the following clause shall be substituted, namely:—

‘(b) “environmental pollutant” means any solid, liquid or gaseous substance introduced into the environment in such concentration as may, or tend to alter substantially the composition of the environment or injurious to environment and includes heat, radiation, dust and noise;’

Amend-
ment of
section 3.

3. In section 3 of the principal Act,—

(i) for sub-section (2), the following sub-section shall be substituted, namely:—

“(2) The Central or State Governments may, by order, published in its or their Official Gazettes, constitute such enforcement agencies at Central or State level as they consider necessary and expedient so to do for the purposes of enforcing or implementing the provisions of this Act.”; and

(ii) sub-section (3) shall be omitted.

Insertion
of new
sections
3A, 3B,
3C, 3D
and 3E.

4. After section 3 of the principal Act, the following sections shall be inserted, namely:—

Constitu-
tion of
National
Environ-
mental
Quality
Agency
and
National
Environ-
mental
Authority.

“3A. (1) Notwithstanding anything contained in sub-section (2) of section 3, the Central Government shall constitute a National Environmental Quality Agency (hereinafter referred to as Agency) and a National Environmental Authority (hereinafter referred to as Authority) for the purposes of implementation of the provisions of this Act.

(2) Notwithstanding any statutory agency already functioning in the State, the Central Government shall, in consultation with the State Government, constitute Regional offices of the Agency and Authority in every State to be called State Environmental Agency and State Environmental Authority.

(3) The Agency and the Authority shall have the power to supervise and to coordinate the functions of these regional offices:

Provided that the Agency and Authority may entrust some of its functions and delegate its powers to the Regional Offices.

Composi-
tion of
Agency.

3B The Agency shall consist of five members who have specialised in the field of environmental and legal sciences, and a legal cell with specialists in the field of environmental law, to be appointed by the Central Government.

Powers
and
functions
of the
Agency.

3C. (1) The powers and functions of the Agency shall include the following:—

(a) to strive to evolve a national environmental policy and to protect and preserve environment in an acceptable state;

(b) to study man environment interaction and the implications of rapid industrialisation and weather modification techniques and their impact on the ecology;

(c) to promote research in the environmental field, and to collect and disseminate the information in respect of matters relating to environmental pollution and to publish annual environment assessment reports;

(d) to prepare manuals, codes or guide-lines for promotion and improvement of environmental protection;

(e) to lay down standards for the quality of environment in its manifestation aspects;

(f) to identify and designate those industries and other activities that are of significant sources of pollution;

(g) to lay down standards for emission or discharge of environmental pollutants from various sources whatsoever;

(h) restriction of areas in which any industries, operations or processes or class of industries, operations or processes shall or shall not be carried out subject to certain prescribed safeguards;

(i) to lay down procedures and safeguards for the prevention of accidents which may cause environmental pollution and remedial measures for such accidents;

(j) to lay down procedures and safeguards for the handling of hazardous substances;

(k) to examine such manufacturing processes, materials and substances as are likely to cause environmental pollution;

(l) to suggest alternative methods of meeting rapidly increasing urban transport needs;

(m) to study vehicle pollution control methods and inspect devices used for their purpose and to encourage the use of low-pollution automobiles and fuels;

(n) to undertake research for upgrading technology in order to reduce pollution through noise and discharge of exhaust to the minimum possible levels, and to regulate fuel composition and additives;

(o) to collect representative samples of instruments to control pollution in automobiles, for periodical scrutiny.

(2) In particular, the Agency shall designate the following as priority areas for research:—

(i) methods for comprehensive environmental development of human settlements, both urban and rural, and the exploitation and optimum use of natural resources;

(ii) quantitative housing requirements and other infrastructure in this connection, and the activities of several public works departments;

(iii) water supply, sewerage and waste disposal systems adapted to local conditions; and

(iv) the problem of deforestation, the use of chemicals and fertilisers to control insects and weeds, soil conservation, silt from land

erosion, heat from industrial processes and power generating equipments, radio-active materials and nuclear fall out and pollution by noise from industries and automobiles.

(3) The legal cell of the Agency shall be responsible for laying down detailed procedures as to the mode and quantum of compensation to be paid in cases of loss of life or injury to property or the environment or health of human beings caused by environmental pollution:

Provided that the Agency may work in close coordination with the specialists in environmental planning and rural development.

Composi-
tion of
Autho-
rity.

3D. The Authority shall consist of three members to be appointed by the Central Government and shall be responsible for enforcing and implementing the long-term and short-term plans and environmental standards laid down by the Agency.

Powers
and
func-
tions of
Autho-
rity.

3E. The Authority shall have the power to—

(a) inspect any premises, plant, equipment, machinery, manufacturing or other process, materials or substances and giving, by order, such directions to such authorities, officers or persons as it may consider necessary to take steps for the prevention, control and abatement of environmental pollution;

(b) to initiate legal proceedings against persons or concerns contravening the provisions of this Act;

(c) to collect samples of air, water and soil from the premises of industrial and other potential sources of pollution;

(d) to investigate into and report on the alleged violations of the provision of this Act on the basis of complaints lodged by individuals or bodies of individuals; and

(e) to take immediate remedial steps in cases of emergency.

Substitu-
tion of
new
section
for
section
4.

5. For section 4 of the principal Act, the following section shall be substituted, namely:—

Appoint-
ment of
officers
and
their
powers
and
func-
tions.

“4. (1) The Authority may appoint officers with such designations as it thinks fit for the purposes of this Act and may entrust to them such of the powers and functions under this Act as it may deem fit.

(2) The officers appointed under sub-section (1) shall be subject to the general control and direction of the Authority.”

6. For section 19 of the principal Act, the following section shall be substituted, namely:—

Substitution of new section for section 19.

"19. (1) No Court below the rank of a District Court shall be empowered to decide disputes arising under this Act.

Filing of suits.

(2) A case under this Act may be filed either by an individual or a body of individuals directly or through the State Environmental Authority or by the Authority itself.

(3) On being approached by any individual or a body of individuals with a complaint against an alleged contravention of this Act, the Authority shall make a preliminary investigation into the allegations, and if it is satisfied that a *prima facie* case exists, it shall file a case against the alleged polluter.

(4) The Court shall, in deciding any matter under this Act,—

(i) be assisted by at least two environmental experts to be made available by the State Government;

(ii) require the State Authority to investigate into the matter and file the report thereof before it."

STATEMENT OF OBJECTS AND REASONS

With a view to effectively control environment pollution to the desired levels the Environment (Protection) Act was enacted in 1986. This was in addition to the already existing laws to check the air and water pollution in the country. But despite its best intentions and with a consistent supporting hand of the Parliament, Government has failed to effectively contain the environment pollution in the country. The air of the National Capital and other metropolitan cities has become polluted to the poisonous level resulting in various respiratory disease such as bronchitis, asthma, sinus and even lung cancer. According to a report, by the end of this century the city of Delhi will become unfit for human habitation. The air pollution goes unchecked despite stiff penalties provided in the Motor Vehicle Act, 1989. Though the air is generally polluted by motor vehicles other factors also contribute towards polluting the air such as factories, power houses emanating fly ash and smoke, household cooking, *dhabas*, restaurants, hotels, smoking by citizens and ever increasing dust in the air. Similarly water is also being polluted by discharge of effluents from factories containing hazardous substances. The Municipalities turn the drains towards the rivers, citizens bathe, defecate and sometimes throw corpses and carcasses in the rivers thereby polluting them to the worst level. Noise pollution is also becoming a nuisance in the country day by day. Thus the process of polluting the environment is unabated affecting even the wild life and the flora and fauna. The Government machinery is inadequate to implement the environmental laws but at the same time it is high time the public is made aware of the problems connected with environmental pollution. The citizens should be involved in safeguarding individual and social interests. In this Bill an attempt has been made to suggest modifications in the Environment (Protection) Act, 1986 with a view to make it more meaningful and effective by plugging certain loopholes in dealing with problems of environmental pollution in the country so that it may remain a safe place for habitation.

Hence this Bill.

SHRESH PACHOURI

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides that the Central Government may, if it considers necessary, constitute enforcement agencies for implementing the provisions of the Environment (Protection) Act, 1986. Clause 4 provides that the Central Government shall constitute National Environmental Quality Agency and National Environmental Authority and Regional offices of these machineries in every State. The Agency and the Authority shall consist of five and three members respectively, to be appointed by the Central Government. It further provides that the Agency would undertake research work, collect information, lay down standards for the quality of environment and for emission or discharge of environmental pollution, preparation of manuals and codes in connection with environmental pollution. It further provides for payment of compensation for loss of life, injury to property or health of human beings due to environmental pollution. Clause 5 provides for appointment of officers by the Authority.

The Bill, therefore, if enacted, would involve expenditure from the Consolidated Fund of India. An estimated annual recurring expenditure of rupees two crores is likely to be involved from the Consolidated Fund of India.

A non-recurring expenditure to the tune of rupees one crore is also likely to be involved.

VIII

BILL NO. X OF 1991

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Forty-second Year of the Republic of India as follows:—

Short
title
and
com-
mence-
ment.

1. (1) This Act may be called the Constitution (Amendment) Act, 1991.

(2) It shall come into force at once.

Amend-
ment of
article
15.

2. In article 15 of the Constitution, in clause (4), for the words “any socially and educationally backward classes of” the words “economically and educationally deprived” shall be substituted.

Amend-
ment of
article
16.

3. In article 16 of the Constitution, in clause (4), for the words “any backward class of” the words “any economically and educationally deprived categories of” shall be substituted.

Amend-
ment of
article
340.

4. In article 340 of the Constitution,—

(a) In the marginal heading for the words “backward classes” the words “economically and educationally deprived categories of citizens” shall be substituted.

(b) In clause (1) for the words “socially and educationally backward classes” the words “economically and educationally deprived categories of citizens” shall be substituted.

STATEMENT OF OBJECTS AND REASONS

The founding fathers of the Constitution while granting the right to equality to the citizens of the country have also provided in the Constitution that despite the right to equality there shall be no bar on the jurisdiction of the State to make special provisions for the advancement of socially and educationally backward classes of citizens. Similarly in article 340 the framers of the Constitution have provided for appointment of a Commission to investigate into the conditions of backward classes. These provisions in the Constitution were inevitable as we had opted for a Welfare State and the State had to uplift the socially, economically and educationally deprived citizens of the country. However over the years the nomenclature "backward classes" seems to have lost its sanctity. Moreover, even the persons who are still backward do not like to be called backward as use of that term in respect of them creates a feeling of inferiority complex in them. The nomenclature is detested more by the younger generation who feels humiliated to be identified by the term backward. Similarly, those citizens who make advancement in society by availing of higher education and attaining higher status in life continue to reap the benefits meant for the really backward class of citizens simply because they once belonged to that class.

The stigma of "backwardness" needs to be removed from the Constitution itself. The words "backward classes", used in certain articles of the Constitution therefore, need to be replaced by "economically and educationally deprived category of citizens" to give respectability to those who have been denied the opportunity to advance in society.

This Bill seeks to achieve the above objects.

S. S. AHLUWALJA

IX

BILL NO. XI OF 1991

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Forty-second Year of the Republic of India as follows:—

Short title
and com-
mence-
ment.

1. (1) This Act may be called the Constitution (Amendment) Act, 1991.

(2) It shall come into force at once.

Amend-
ment of
article 75.

2. In article 75 of the Constitution, to clause (5) the following proviso be added namely:—

“Provided that nothing in this clause shall apply to a Minister who is already a member of either House of Parliament and has been disqualified for being such a member under clause (2) of article 102 and such a Minister shall cease to be a Minister upon such disqualification.”

Amend-
ment of
article
164.

3. In article 164 of the Constitution, to clause (4) the following proviso be added, namely:—

“Provided that nothing in this clause shall apply to a Minister who is already a member of the State Legislature and has been disqualified for being such a member under clause (2) of article 191 and such a Minister shall cease to be a Minister upon such disqualification.”

STATEMENT OF OBJECTS AND REASONS

Clause (5) of article 75 of the Constitution provides that any person may be inducted as a Minister even if he is not a member of either House of Parliament. Such a Minister may remain in his office upto a maximum period of six months and to continue a Minister beyond that period he must acquire membership of either House of Parliament before the expiry of six months period. This provision was inserted in the Constitution by its founders to enable a Prime Minister of the country to induct capable and outstanding persons in his/her Council of Ministers in national interest even if such persons are not members of either House of Parliament. So far this provision was working smoothly but recent political developments in the country have created a situation when five Ministers of the Government were disqualified from the membership of Lok Sabha under the Tenth Schedule to the Constitution by the Speaker of Lok Sabha but instead of being dropped from the Council of Ministers they were allowed to continue in their offices taking shelter under this provision. The argument given was that anybody could remain a Minister for six months without being a member of either House of Parliament. This interpretation has defeated the entire purpose and the spirit of this provision in the Constitution. Thus a need has arisen to clearly provide in the Constitution that if a Minister who is already a member of either House of Parliament is disqualified from such membership under the Tenth Schedule, he/she shall cease to be a Minister from the date of such disqualification as Member of Parliament or state Legislature as the case may be.

Hence, this Bill.

S. S. AHLUWALIA.

X

BILL No. XXI OF 1991

A Bill to provide for the establishment of a Welfare Fund for the benefit of marginal farmers and agricultural workers in the country and for matters connected therewith.

BE it enacted by Parliament in the Forty-second Year of the Republic of India as follows:—

Short
title,
extent
and com-
mence-
ment.

1. (1) This Act may be called the Marginal Farmers and Agricultural Workers Welfare Fund Act, 1991.

(2) It extends to the whole of India.

(3) It shall come into force with immediate effect.

Defini-
tions.

2. In this Act, unless the context otherwise requires,—

(a) “accident” means an accident caused during the course of an agricultural operation by a tractor, power crusher or any agricultural machinery and includes an injury due to a fall from any

agricultural machinery, tree or falling into a well or receiving electric shock, snake bite or attack by any wild or domesticated animal;

(b) "agricultural operation" means any work relating to agriculture, horticulture, sericulture, rearing of sheep, cattle, milch cattle, poultry or any other work connected with or ancillary to agriculture;

(c) "agricultural worker" means an agricultural worker who is landless and earns his livelihood by working either on other's land or agricultural operation on daily, monthly or annual wages or on any other basis and whose only source of income is the wages he earns from such work;

(d) "commissioner" means a Commissioner appointed under section 7 of this Act;

(e) "marginal farmer" means a farmer who owns not more than five acres of wet land or seven acres of partially wet and dry land or ten acres of dry land;

(f) "partial disablement" means such disablement which reduces the working capacity of a farmer or agricultural worker temporarily which he was capable of having before the accident;

(g) "prescribed" means prescribed by the rules made under this Act;

(h) "total disablement" means any disablement which incapacitates a marginal farmer or agricultural worker for all work which he was capable of performing prior to the accident;

(i) "welfare fund" means the Marginal Farmers and Agricultural Workers Welfare Fund constituted under section 6 of this Act.

3. If a personal injury is caused to a marginal farmer or agricultural worker by accident arising out of and in the course of agricultural operations, the injured farmer or worker shall be entitled to and receive compensation out of the Welfare Fund in accordance with the provisions of this Act;

Compensation to marginal farmer and agricultural worker in case of accident during operation.

4. Subject to the provisions of this Act, the amount of compensation payable to a marginal farmer or agricultural worker sustaining injury resulting in his death or total or partial disablement shall be such as may be specified by the Central Government from time to time by notification in the official Gazette.

Fixation of compensation.

Payment of compensation in case of death.

5. In case of death of a marginal farmer or agricultural worker the compensation shall be paid to the spouse of the deceased or to his legal heir or to the children and in case the victim is unmarried the compensation shall be paid to his parent or parents.

Establishment of Welfare Fund to pay compensation.

6. (1) The Central Government shall constitute a Welfare Fund for the purposes of this Act.

(2) The initial amount of the Welfare Fund constituted under sub-section (1) shall be three hundred crore rupees of which two hundred crore rupees shall be provided by the Central Government after due appropriation made by Parliament in this behalf and one hundred crore rupees shall be provided by the State Governments in proportion to their agricultural population relevant for the purposes of this Act.

(3) After the initial constitution of the Welfare Fund moneys shall be provided by the Central and State Governments in such proportion as may be agreed to from year to year and also by the employers of agricultural workers from time to time as may be prescribed.

Appointment of Commissioner.

7. The Central Government shall by notification in the official Gazette appoint a Commissioner, for every district of the country, who shall entertain the claims for payment of compensation under this Act.

Form of Claim.

8. Every claimant for payment of compensation under this Act shall give the name and address of the marginal farmer or agricultural worker who died or was injured in an accident and shall state the cause of death or injury, name of the employer in case of agricultural worker, date and place of injury and other relevant matters relating to the claim.

Inquiry by Commissioner.

9. On receipt of the claim the Commissioner shall enquire into the matter and decide the amount of compensation payable under the Act and shall record the reasons for coming to such decision.

Proof of death or injury.

10. The proof of death of or injury to a marginal farmer or an agricultural worker as a result of an accident in an agricultural operation shall be provided in such manner as may be prescribed.

Payment of compensation.

11. Every claim for compensation under this Act shall be finalised and the payment made within thirty days of filing of the claim.

Bar to Jurisdiction of Civil Courts.

12. Notwithstanding anything contained in any law for the time being in force, no civil court shall have jurisdiction to stay the operation of the award of compensation made by the Commissioner but the injured marginal farmer or agricultural worker shall have the right to appeal to the District Court against the decision of the Commissioner.

13. The Central Government shall place necessary funds at the disposal of the State Governments for the implementation of the provisions of this Act.

Cooperation of State Governments for carrying out the purposes of the Act.

14. The Central Government may make rules for carrying out the purposes of this Act.

Power to make rules.

STATEMENT OF OBJECTS AND REASONS

The marginal farmers and agricultural workers while pursuing agricultural operations very often receive injuries leading to partial or total disablement and in some cases they also die in such operations. While social security schemes have been extended to organised working classes, the marginal farmers and agricultural workers who constitute more than two third of the working force in the country remain uncovered by such schemes. There is no organisation to protect their interests. This class of our country's population is also the poorest. They are paid meagre wages and when they receive injuries due to accidents and become partially or totally disabled or succumb to such injuries, they and in their absence, their family members suffer tremendous hardships. In fact their families are ruined. There is neither any security nor any legal protection for them under such circumstances. Therefore, it is necessary in the national interest that marginal farmers and agricultural workers are provided with some insurance against accidents met during the course of agricultural operations so that minimum security be given to them.

Hence this Bill.

S. S. AHLUWALIA.

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides for compensation to marginal farmers and agricultural worker in case of accident. Clause 6 provides for the establishment of a Welfare Fund to pay compensation. Clause 7 provides for appointment of Commissioners. The Bill, therefore, if enacted, is likely to involve recurring expenditure from the Consolidated Fund of India to the extent of about rupees eight hundred crores per annum. A non-recurring expenditure of about rupees one crore is also likely to be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 14 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Act. Since the rules will relate to matters of details only the delegation of legislative power is of normal character.

SUDARSHAN AGARWAL,
Secretary-General.